

**Introduced by Committee on Governmental Organization
(Senators Perata (Chair), Chesbro, Dunn, Karnette, Machado,
Soto, and Vincent)
(Coauthor: Senator Burton)**

March 12, 2001

An act to amend Sections 25503 and 25503.1 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1189, as introduced, Committee on Governmental Organization. Alcoholic beverages: licensees: advertising restrictions.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. Under these provisions, these persons may not pay, credit, or compensate a retailer for advertising, display, or distribution service in connection with the advertising and sale of distilled spirits.

This bill would make that provision also applicable to the advertising and sale of beer.

Existing law provides specific exceptions to these advertising prohibitions in connection with off-sale retail licensees.

This bill would make those exceptions applicable to all retail licensees.

Existing law makes it a misdemeanor for a licensee, subject to the provisions of the bill, to violate existing provisions relating to the purchase of that advertising space or time.

This bill would impose a state-mandated local program by expanding the licensees subject to these criminal provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503 of the Business and Professions
2 Code is amended to read:
3 25503. No manufacturer, winegrower, manufacturer's agent,
4 California winegrower's agent, rectifier, distiller, bottler,
5 importer, or wholesaler, or any officer, director, or agent of ~~any~~
6 ~~such that~~ person, ~~shall~~ *may* do any of the following:
7 (a) ~~Directly or indirectly, deliver~~ *Deliver, directly or indirectly,*
8 the possession of any alcoholic beverages to any ~~on-~~ *on-sale* or
9 off-sale licensee under an agreement of consignment whereby title
10 to the alcoholic beverages is retained by the seller or whereby the
11 licensee receiving the alcoholic beverages has the right at any time
12 prior to sale to relinquish possession to or return them to the
13 original seller.
14 (b) ~~Directly or indirectly, give~~ *Give, directly or indirectly,* any
15 licensee or any person any alcoholic beverages as free goods as a
16 part of any sale or transaction involving alcoholic beverages.
17 (c) Give secret rebates or make any secret concessions to any
18 licensee or the employees or agents of any licensee, and no licensee
19 shall request or knowingly accept from another licensee secret
20 rebates or secret concessions.
21 (d) Give or furnish, directly or indirectly, to any employee of
22 any holder of a retail on-sale or off-sale license only anything of
23 value for the purpose or with the intent to solicit, acquire, or obtain
24 the help or assistance of the employee to encourage or promote
25 either the purchase or the sale of the alcoholic beverage sold or
26 manufactured by the licensee giving or furnishing anything of
27 value, and any employee who accepts or acquires anything of



value contrary to the provisions of this subdivision is guilty of a misdemeanor.

(e) Willfully or knowingly discriminate, in the same trading area, ~~either~~ directly or indirectly, in the price of any brand of distilled spirits sold to different retail licensees purchasing under like terms and conditions.

(f) Pay, credit, or compensate a retailer or retailers for advertising, display, or distribution service in connection with the advertising and sale of distilled spirits *or beer*.

(g) Furnish, give, lend, or rent, directly or indirectly, to any person any decorations, paintings, or signs, other than signs advertising their own products as permitted by Section 25611.1.

(h) Pay money or give or furnish anything of value for the privilege of placing or painting a sign ~~or~~, advertisement, or window display, on or in any premises selling alcoholic beverages at retail.

SEC. 2. Section 25503.1 of the Business and Professions Code is amended to read:

25503.1. (a) ~~Anything in this division to the contrary notwithstanding~~ *Notwithstanding any other provision in this division*, any manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of ~~any such~~ *that* person is authorized:

(1) Only in connection with alcoholic beverages manufactured, produced or sold by ~~such~~ *that* licensee, to install, service, and set up window displays, promotional materials, and temporary floor displays holding merchandise in the premises of ~~an off-sale~~ *a* retail licensee.

(2) Only in connection with alcoholic beverages manufactured, produced, or sold by ~~such~~ *that* licensee, to furnish, give, lend, rent, or sell decorations and decorative materials, including holiday decorations, paintings, and pictures, to ~~an off-sale~~ *a* retail licensee for use in the windows and elsewhere in the interior of the retail premises in connection with advertising and promotional material or displays in the premises of ~~such~~ *the* retailer; provided, that the advertising and promotional material shall have no intrinsic value other than as advertising and that the total original cost of all ~~such~~ *the* decorations and decorative materials, including holiday decorations, paintings, and pictures furnished by any licensee and in use at any one time in any one ~~off-sale~~ retail premise shall not

1 exceed the amount established by rules of the department; and
2 provided, that the licensee or any officer, director, or agent of ~~such~~
3 ~~the~~ licensee shall not, directly or indirectly, pay or credit the
4 retailer for the display of ~~such the~~ decorations or decorative
5 materials or for any expense incidental to their operation.

6 (3) To furnish, give, lend, rent, or sell to ~~an off-sale~~ a retailer
7 who sells the alcoholic beverages of ~~such the~~ licensee, newspaper
8 cuts, mats, or engraved blocks for use in the retailer's
9 advertisements relating to ~~such the~~ alcoholic beverages.

10 (b) ~~Anything in this chapter to the contrary notwithstanding~~
11 *Notwithstanding any other provision in this division*, any holder of
12 a wholesaler's license may manufacture, ~~and~~ distribute, sell, or
13 rent any lawful product to any person engaged in operating,
14 owning, or maintaining any retail premises where alcoholic
15 beverages are sold; provided, however, that ~~such the~~ products are
16 sold or rented by the holder of the wholesaler's license to the
17 licensee at a price not less than the current market price for ~~such~~
18 ~~the~~ product; and provided, further, that the manufacturer and
19 importer of alcoholic beverages shall be controlled by the other
20 applicable provisions of this division.

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

